UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/171,960	10/29/1998	ROBERT D SPINDLEY	36-1287	8693

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EXAMINER
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ART UNIT	PAPER NUMBER
2663	12

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Advisory Action	09/171,960	SPINDLEY ET AL.
	Examiner ᴅᴡ Derrick W. Ferris	Art Unit 2663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>5</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
        NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1-17 and 21-23*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

MELVIN MARCELO
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Examiner notes the claims as twice amended by applicant are almost or very similar to the originally filed set of claims (i.e., it appears applicant has reverted back to the originally filed claims possibly given examiner's objection to new matter to the proposed first claim amendment with respect to higher a lower level processors). Thus still at issue between the examiner and applicant are the broadly cited general steps of overwriting a control field and taking corrective action at a lower level of a messaging protocol as opposed to a higher level. Very specifically (with emphasis), examiner notes the point at issue is what applicant means by "control field" in relation to a lower layer [e.g., in reference to claim 1, line 5] since in order to understand the context of what applicant means by a lower layer, a control field must be understood in light of the present invention since it is the control field which is overwritten and where a corrective action takes place. In the context of applicant's definition of a lower layer and a control field, examiner notes applicant's admission as follows in applicant's specification:

"Often, a third party will be given a connection to an access node with the intention that it should be used as a simple point-to-point link for direct transfer of signals into or out of the network. However, depending on the values set in the routing control fields of the incoming signals, the third party might extend its access to further nodes beyond the original access node. This might be done, for example, in order to implement transfer routing through the network to another party outside of the network. This preferred aspect of the invention prevents this by overwriting the routing control fields. In the case of a network employing ITU-T Signalling System No. 7 (SS7), the relevant control fields are the originating point code (OPC) and destination point code (DPC) and the access node overwrites one or both of these codes. The OPC may be overwritten with the point code of the external signal source, and the DPC may be overwritten with the point code of the access node." [Applicant's Specification on page 3, lines 9-20]

Thus applicant states the values in a control field that are overwritten are an originating point code (OPC) and a destination point code (DPC). Hence it appears from applicant's definition that the control field makes up the message transfer part MTP (including layer 3) such that the MTP must be the lower layer and the higher layer must be above the MTP (as shown in relation to applicant's figure 4 such as layer 4).

In using this definition of a lower layer and a control field, Weisser discloses the general functionality of a comparison and action but is silent or deficient with respect to which layer the functionality is to be implemented (i.e., whether the functionality is implemented at a higher layer or a lower layer). Examiner notes applicant's remarks but does not agree with applicant's objective evidence supplied on pages 10-11 with respect to applicant's three main points on why this comparison "must" be done at a higher level. Thus the question still remains would it have been obvious to a skilled artisan to implement the functionality as disclosed by Weisser at a lower level as opposed to a higher level given the broadly cited subject matter? Examiner has further supplied to Clarke et al. reference which shows the general functionality of replacing information at a lower layer (i.e., replacing the message/data unit 41 which comprises a originating point code and a destination point code as shown with respect to figures 2 and figure 3) where a lower layer comprises layers 1-3 or a message transfer part 24. .